

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

KEVIN M. KEMP,

Plaintiff,

vs.

CAROLY W. COLVIN, acting Commissioner
of Social Security Administration,

Defendant.

Case No. 2:15-cv-00706-GMN-GWF

ORDER

This matter comes before the Court on Plaintiff's Motion to Proceed *In Forma Pauperis* (#1) filed on April 17, 2015. Plaintiff filed a Complaint for Judicial Review (#1-1) on April 17, 2015.

BACKGROUND

Plaintiff alleges a claim against the Social Security Administration, challenging its denial of social security benefits. Plaintiff alleges that at all time relevant to this action, he was disabled as defined by the Social Security Act. Plaintiff claims that the Social Security Commissioner, initially and upon reconsideration, denied his request for supplemental security income. Plaintiff states that he timely requested review of the ALJ's decision with the Appeals Council, which was denied on January 21, 2015. Plaintiff applied for and received an extension of time on March 20, 2015. Plaintiff now seeks judicial review of that final agency decision.

DISCUSSION

I. Application to Proceed In Forma Pauperis

Plaintiff filed this instant action and attached a financial affidavit to his application and complaint as required by 28 U.S.C. § 1915(a). Having reviewed Plaintiff's financial affidavit

1 pursuant to 28 U.S.C. § 1915, the Court finds that Plaintiff is unable to pre-pay the filing fee.
 2 Therefore, Plaintiff's request to proceed *in forma pauperis* in federal court is granted.

3 **II. Complaint**

4 Plaintiff brings suit against the SSA alleging he was wrongfully denied social security
 5 disability benefits. Federal courts only have jurisdiction to conduct judicial review of the SSA's
 6 final decisions. *See* 42 U.S.C. § 405(g); *see also Pacific Coast Medical Enterprises v. Harris*, 633
 7 F.2d 123, 137 (9th Cir. 1980). Plaintiff appears to have fully exhausted his administrative remedies
 8 with the SSA. The Court will therefore allow Plaintiff's complaint to proceed as a petition for
 9 judicial review of a final agency decision. Accordingly,

10 **IT IS HEREBY ORDERED** that Plaintiff's Motion to Proceed *In Forma Pauperis* (#1) is
 11 **granted** with the caveat that the fees shall be paid if recovery is made. At this time, Plaintiff shall
 12 not be required to pre-pay the full filing fee of four hundred dollars (\$400).

13 **IT IS FURTHER ORDERED** that the Clerk of the Court shall file the Complaint (#1-1).

14 **IT IS FURTHER ORDERED** that the Clerk of the Court shall serve the Commissioner of
 15 the Social Security Administration by sending a copy of summons and Complaint by certified mail
 16 to: (1) Office of the Regional Chief Counsel, Region IX, Social Security Administration, 160 Spear
 17 Street, Suite 899, San Francisco, California 94105; and (2) the Attorney General of the United
 18 States, Department of Justice, 950 Pennsylvania Ave. NW, Washington DC 20530.

19 **IT IS FURTHER ORDERED** that the Clerk of the Court shall issue summons to the
 20 United States Attorney for the District of Nevada, and deliver the summons and Complaint to the
 21 U.S. Marshal for service.

22 **IT IS FURTHER ORDERED** that Defendants shall have **sixty (60) days** from the date of
 23 service to file their answer or responsive pleading to Plaintiff's Complaint in this case.


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GEORGE FOLEY, JR.
United States Magistrate Judge